

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)  
*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 06FEB25 *Check all that apply:*  
**Bill Number:** HB309 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Joseph Sanchez, Rep. Randall T. Pettigrew  
**Short Title:** REMOVING UNLAWFUL OCCUPANTS FROM PROPERTY  
**Agency Name and Code:** 790 – Department of Public Safety  
**Number:** \_\_\_\_\_  
**Person Writing:** \_\_\_\_\_  
**Phone:** 5757601485 **Email:** Matthew.broom@dps.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	NFI	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	NFI	N/A

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI	NFI	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

House Bill 309 establishes a legal process for removing unlawful occupants from residential property, allowing property owners to seek assistance from law enforcement. It provides for verified complaints, notice to vacate, and, if necessary, law enforcement oversight during property removal and lock changes. The bill also creates a civil remedy for individuals wrongfully removed and increases penalties for criminal damage to property when damages exceed \$1,000. It aims to address trespassing and property damage while ensuring legal protection for all parties.

### **FISCAL IMPLICATIONS**

No fiscal implications to DPS.

### **SIGNIFICANT ISSUES**

HB 309 raises several legal concerns, particularly regarding the removal of unlawful occupants from real property and involvement of peace officers in this process.

The bill allows property owners or their authorized agents to request the immediate removal of unlawful occupants. The bill requires that property owners complete a detailed form indicating that the occupant is unlawfully present. There is a risk of property owners or agents misusing this process.

The bill gives peace officers the authority to act in removing unlawful occupants, which could blur the lines between civil matters (eviction/trespassing) and criminal enforcement. Law enforcement officers would essentially be acting as a judge and enforcer in property disputes, which could raise constitutional and procedural concerns regarding due process. Moreover, the peace officer is required to identify unlawful occupants and may arrest individuals for trespassing or other offenses. However, the bill does not specify what happens if the removal is later found to be unlawful, potentially leaving room for civil liability for law enforcement.

While the bill absolves the property owner or agent from liability for personal property damage unless the removal is wrongful, the bill does not clarify who is responsible for the property damage during the eviction process or if damage occurs during law enforcement's involvement. The vague provisions might lead to future litigation regarding who bears the costs of damage caused during the eviction and could expose DPS to potential liability for carrying out the process set forth in this bill.

With respect to due process concerns, the ability to remove people quickly without a court hearing or determination of the underlying facts may violate the constitutional protections of due process under the 14th Amendment of the New Mexico Constitution. While the bill requires some verification and form submission, it may still run the risk of conflicting with the right to fair notice and a hearing before eviction. Additionally, the bill raises concerns about equal protection by creating a process that may disproportionately affect certain groups of people (e.g., low-income individuals or minorities).

The bill also has provisions that allow peace officers to charge fees for standing by during the lock-changing process, which could disproportionately affect property owners with fewer financial resources and may lead to legal challenges regarding the fairness and reasonableness of the fees.

### **PERFORMANCE IMPLICATIONS**

No performance implications to DPS.

### **ADMINISTRATIVE IMPLICATIONS**

No administrative implications to DPS.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

No conflict, duplication, companionship or relationship to DPS.

**TECHNICAL ISSUES**

No technical issues to DPS.

**OTHER SUBSTANTIVE ISSUES**

No other substantive issues to DPS.

**ALTERNATIVES**

Not applicable as no impact to DPS.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo will remain.

**AMENDMENTS**

None at this time.